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Pro Se

UNITED STATES BANKRUPTCY COURT
DISTRICT OF IDAHO

In Re:

FRANK L. CHAPIN and
SYDNEY L. GUTIERREZ-CHAPIN

Debtors

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)
)
) Case No. 02-20218
)
) MOTION FOR ORDER TO STAY
) THE SALE OF CERTAIN
) BANKRUPTCY ESTATE ASSETS
)
)

COMES NOW, Debtors, Frank L. Chapin and Sydney L. Gutierrez-Chapin, appearing pro se, in order to request this court for entry of an order to stay the sale of certain bankruptcy estate assets.

MOTION FOR ORDER TO STAY THE SALE OF
CERTAIN BANKRUPTCY ESTATE ASSETS - 1

FACTS

- 1) Debtor's attorney, who has withdrawn, erred in listing all assets as joint assets.
- 2) The Leaf claims hinge upon litigation in Spokane County Washington. This action was filed against Frank L. Chapin as Co-Personal Representative of the Wilbur and Christina Leaf Estates. Sydney L. Gutierrez-Chapin is not and was not involved in this case. In fact, all attorneys involved in this case purposely excluded Mrs. Chapin. She was not allowed to attend any depositions or meetings where Spokane County issues were discussed.
- 3) As per Trustee's Statement of Objection RE Stay Relief, Paragraph 2:

"The claim of Frederick Leaf is not fixed and liquidated. See Claim No. 13. The stated basis of the claim is pending litigation subject o final adjudication. The allowance of and amount of claim is a core proceeding. 28 U.S.C. § 157(b)(2)(b). The Bankruptcy Court has exclusive jurisdiction on the allowance and amount of claim."

- 4) The filing of the Chapter 11 Bankruptcy Petition on February 22, 2002 was a joint filing. However, by virtue of Idaho being a community property state does not automatically justify combining separate debt into joint debt.

- 5) As per Idaho Statutes, Title 11, Chapter 2, 11-204 Exemption in Favor of Married Woman, a woman's marital interest in community property is exempt from collection by a creditor of the husband.
- 6) The Bankruptcy Trustee has not acted in the capacity of protecting bankruptcy estate assets and/or maximizing value received for the assets. He conducted a sale of seventeen horses grossing \$4,075.00 less unknown expenses. Mrs. Chapin had an offer to sell the same horses for a gross of \$8,500.00 with no expenses.
- 7) Schedule D creditors holding secured claims filed as \$28,060.14 has been reduced through return of assets to \$6,450.94 of which \$3,255.06 has been converted to an unsecured debt.
- 8) Schedule F, Unsecured Creditors filed the amount of \$1,115,219.80 of which \$1,000,000.00 represents the claim of the American Lutheran Church, et al. Which relates to the Leaf Estate as referenced in Paragraph 2. This claim is against Frank L. Chapin and is not a debt of Sydney L. Gutierrez-Chapin. \$79,330.00 has been settled through mediation with Robert Kovacevich, P.L.L.C. \$6,059.24 has been paid or adjusted leaving \$29,830.56 as community debt subject to disposition or conversion of community assets.
- 9) Sydney L. Gutierrez-Chapin will lose assets and suffer economic loss if assets well in excess of her debt are sold. Her one half of the marital share of the community debt is \$14,915.28.

REQUEST

BASED UPON the above facts, the Debtors request the following:

- 1) That no real estate or any further assets be sold until the Leaf monetary issue is settled.
- 2) That monies paid by Robert Kovacevich in the amount of \$250,000.00 be credited against what amount may be decided upon.
- 3) That monies paid to Joseph Delay which consist of a check in the amount of \$170,000.00, proceeds from the sale of a car \$3,200.00 and proceeds from the sale of Pend Oreille Bank Stock, \$12,507.00, be credited against what amount may be decided upon.

The Debtors also request the following:

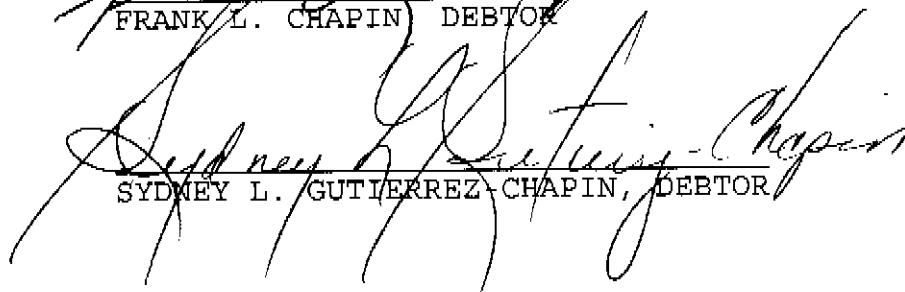
- 1) Sydney L. Gutierrez-Chapin's marital one-half of the community property be exempt from any claim by the American Lutheran Church, et al and Doctor Frederick A. Leaf.
- 2) That if an amount owed to Doctor Leaf is determined, the Bankruptcy Trustee be ordered to demand from heirs of the Wilbur Leaf Estate, who received larger distributions than they should have, to return those funds in order to redistribute to the heirs of

Christina Leaf's Estate. Therefore, the Bankruptcy Trustee should demand the return of \$362,079.66 from the Wilbur Leaf Estate heirs.

WE REQUEST a hearing in order for Judge Terry L. Myers to render a decision on these matters.

DATED this 16th day of March, 2004.


FRANK L. CHAPIN DEBTOR


SYDNEY L. GUTIERREZ-CHAPIN, DEBTOR

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this _____ day of March, 2004, I caused to be served a true and correct copy of the MOTION FOR ORDER TO STAY THE SALE OF CERTAIN BANKRUPTCY ESTATE ASSETS and addressed to the following:

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